

**THREE HILLS MINE PROJECT**  
**DECISION RECORD,**  
**PLAN OF OPERATIONS APPROVAL,**  
**AND**  
**AT&T NEVADA THREE HILLS FIBER OPTIC CABLE REALIGNMENT**  
**PLAN OF DEVELOPMENT MODIFICATION**  
**APPROVAL**

Plan of Operations Number: N-93515  
Right-Of-Way Number: N-73706  
DOI-BLM-NV-B020-2015-0054-EA

Bureau of Land Management  
Battle Mountain District,  
Tonopah Field Office  
Tonopah, Nevada

Cooperating Agencies:  
Nevada Department of Wildlife  
Esmeralda County  
Nye County

**DECISION RECORD, PLAN OF OPERATIONS APPROVAL, AND AT&T**  
**NEVADA THREE HILLS FIBER OPTIC CABLE REALIGNMENT PLAN**  
**OF DEVELOPMENT MODIFICATION**  
**APPROVAL:**



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**Timothy J. Coward**  
**Field Manager**  
**Tonopah Field Office**

25 November 2015  
**Date Signed**

## **DECISION**

WK Mining (USA) Ltd.	:	
Attn: Sandy McVey,	:	Surface Management
Bentall Tower 5	:	
Suite 788- 550 Burrard Street	:	
Vancouver, BC	:	
Canada V6C 2B5	:	

### **Three Hills Mine Project Plan of Operations Approval Determination of Required Financial Guarantee Notice N-91216 Vacated**

## **INTRODUCTION**

The Bureau of Land Management (BLM) has prepared an Environmental Assessment (EA), DOI-BLM-NV-B020-2015-0054-EA that analyzes the affected environment, environmental impacts, and identifies Environmental Protection Measures (EPMs) associated with *WK Mining (USA) Ltd. (WKM) Three Hills Mine Project Plan of Operations (N-93515)/Nevada Reclamation Permit Application (Plan)* for the Three Hills Mine Project (Project). The final Plan was submitted in November 2015, in accordance with the BLM Surface Management Regulations 43 Code of Federal Regulations (CFR) 3809, as amended. It has been assigned BLM case file number N-93515. In addition, one right-of-way (ROW) application and associated Plan of Development (POD) for activities associated with the Project have been proposed. The Project and associated activities are located in portions or all of Sections 33, and 34, Township 3 North, Range 42 East (T. 3 N., R. 42 E.), and Sections 3, 4, 5, and 14, T. 2 N., R. 42 E., Mount Diablo Base and Meridian (MDB&M) (Project Area). The Project Area is comprised of approximately 722 acres, of which approximately 459 acres would be new surface disturbance.

## **BACKGROUND**

WKM proposes to construct, operate, and close an open pit gold mine and processing plant. The POD and amended ROW application (N-73706) that was submitted proposes to realign an existing buried fiber optic cable. The Project would include the following major components: one open pit; waste rock storage areas; run-of-mine ore placement; a heap leach pad with associated process water tanks and an Event Pond; an Absorption-Desorption-Recovery processing plant; a refinery; exploration; a lime silo; a water supply pipeline and associated water delivery pipelines; on-site power generation and distribution system; access and haul roads; ancillary facilities that include the following: haul, secondary, and exploration roads; ready line; maintenance area; storm water diversions; sediment control basins; reagent and fuel storage; storage and laydown yards; prill silo and explosive magazines; fresh water storage; monitoring wells; meteorological station; an administration/security building; borrow areas; growth media stockpiles; solid and hazardous waste management facilities to manage wastes; reclamation and closure, including the development of an evapotranspiration cell; realignment of

an existing buried fiber optic cable; and modifications to US Highway 95 at the junction with the South Access Road.

The Plan was submitted to the BLM and the Nevada Division of Environmental Protection (NDEP) Bureau of Mining Regulation and Reclamation (BMRR) in November, 2014 (revised March 2015, May 2015, and September 2015), in accordance with BLM Surface Management Regulations 43 Code of Federal Regulations (CFR) 3809, as amended, and Nevada reclamation regulations at Nevada Administrative Code (NAC) 519A.

## **PUBLIC INVOLVEMENT**

On November 14, 2014, consultation initiation/invitation letters were mailed for the Project from the BLM Battle Mountain District (BMD) Office to the following: the Timbisha Shoshone Tribe; the Yomba Shoshone Tribe; and the Duckwater Shoshone Tribe. The BMD Native American Coordinator spoke to the Duckwater Shoshone Tribe on December 3, 2014, the Timbisha Shoshone Tribe on May 12, 2015, and the Yomba Shoshone Tribe on June 1, 2015, and all Tribes indicated, either through written correspondence or verbally to the BMD Native American Coordinator, they had no concerns with the Project.

The EA was made available for a 30-day public comment period ending on November 17, 2015. Notifications of the availability of the EA were sent to persons and agencies on the Project mailing list and the EA was posted on the Battle Mountain District ePlanning webpage. Additionally, the BLM issued a press release the same day providing a link to the EA and instructions on how to comment. Six comment letters were received from the public or other federal, state, or local agencies. Substantive comments were evaluated and considered by the BLM during the decision making process. Minor corrections or updates to the EA were made as a result of the substantive comment review. The BLM reviewed and considered these comments and determined that they did not identify or present any significant new information or changed circumstances that would warrant additional NEPA analysis. Responses to substantive comments are provided in Appendix B of the EA.

All correspondence relative to this planning process is part of the public record and available for review at the Tonopah Field Office.

## **DECISION**

**1. As a result of the analysis presented in the EA and making a Finding of No Significant Impact (FONSI), and carefully considering the comments and input received from the public, it is the Decision of the Authorized officer to select the Proposed Action as the BLM's Preferred Alternative and approve the Plan with the financial guarantee requirements. The BLM approval of the Plan will be subject to operating, reclamation and monitoring measures committed to by WKM in the Plan, the performance standards set forth in 43 CFR 3809.420, and the Applicant-Committed Environmental Protection Measures (ACEPMs) as set forth in the EA and restated in this Decision under the Conditions of Approval.**

Approval of the Plan by the BLM does not constitute a determination regarding the validity or ownership of any unpatented mining claims involved in the exploration operation. WKM is responsible for obtaining any use rights or local, state or federal permits, licenses or reviews that may be required before operations begin.

This Decision also constitutes concurrence with WKM's use and occupancy of public lands as described in the approved Plan. WKM must maintain compliance with the Use and Occupancy regulations at 43 CFR 3715.2, 43 CFR 3715.2-1, and 43 CFR 3715.5, throughout the duration of the approved Plan. Concurrence by BLM on WKM's proposed use and occupancy is not subject to State Director review, but may be appealed by adversely affected parties directly to the Interior Board of Land Appeals as outlined in enclosed BLM form 1842-1.

## **FINANCIAL GUARANTEE**

Based on WKM's reclamation cost estimate for exploration activities, this office in concurrence with the NDEP, has determined that the amount of **\$84,052.00** is sufficient to meet all anticipated reclamation requirements for these activities. The amount of the reclamation cost estimate is based on the operator complying with all applicable operating and reclamation requirements. The financial guarantee provides surface reclamation coverage for operations conducted by the principal on lands in Nevada governed by 43 CFR 3809. Line items in the approved reclamation cost estimate are not to be considered as the limits of the reclamation expenditures should forfeiture of the financial guarantee be necessary. The line items listed are solely for the purpose of arriving at a total amount for the exploration activities financial guarantee. This amount may be spent as the BLM deems necessary to implement the approved reclamation plan. Nor does the financial guarantee amount represent reclamation liability limits or constraints should the actual cost of reclamation exceed this amount.

Within sixty (60) days of receipt of this Decision, the operator must submit an acceptable financial guarantee in the amount of **\$84,052.00** to the Bureau of Land Management, Branch of Minerals Adjudication, 1340 Financial Blvd., Reno, NV 89502-7147. You must receive written notification from that office accepting and obligating your financial guarantee before you may begin the exploration activities. Failure to provide an acceptable financial guarantee within the specified time frame will result in an enforcement action against the operator for failure to maintain an acceptable financial.

This amount is subject to change pending further review by the BLM and the Nevada Division of Environmental Protection, Bureau of Mining Regulation and Reclamation (NDEP-BMRR).

## **LONG-TERM FUNDING MECHANISM**

Pursuant to the Guidelines for Establishing a Long Term Funding Mechanism (LTFM) and in accordance with 43 CFR 3809.552(c), the BLM may determine that a LTFM will be required for post-reclamation obligations (including long-term monitoring and mitigation) associated with the closure process of the Three Hills Mine Final Plan for Permanent Closure. When BLM identifies a need for the LTFM, WKM shall establish a trust fund or other funding mechanism to ensure

the continuation of long-term treatment to achieve water quality standard and for other long-term post-mining maintenance requirements.

## **2. CONDITIONS OF APPROVAL**

### **Air Quality**

Air emissions, including point and fugitive sources, would be controlled in accordance with the air quality operating permits obtained for the Project and would be controlled in accordance with BMPs. For example, dust control would be provided for haul roads through water application. Point sources would maintain their appropriate controls as identified in the air quality permits.

WKM commits to the following practices for the control of fugitive dust from mining activities and exhaust emissions:

- Use dust abatement techniques on unpaved, unvegetated surfaces;
- Conduct regular maintenance on equipment to ensure proper function;
- Post and enforce speed limits;
- Comply with NDEP BAPC Air Quality Operating Permits; and
- Use dust abatement techniques before and during surface clearing activities by enforcing a Dust Control Plan.

### **Cultural Resources**

Pursuant to 43 CFR 10.4(g), and Section VI.C. of the State Protocol Agreement between the Bureau of Land Management and the Nevada State Historic Preservation Office for Implementing the National Historic Preservation Act (Protocol) (revised 2014), WKM would notify the BLM-authorized officer, by telephone, and with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined in 43 CFR 10.2). Further pursuant to 43 CFR 10.4 and Section VI.B. of the Protocol, WKM would immediately stop all activities within 100 meters (approximately 330 feet) the vicinity of the a discovery and not commence again until a notice to proceed is issued by the BLM-authorized officer.

WKM would inform all field personnel of their responsibilities to protect cultural resources and report inadvertent discoveries. WKM would also inform all field personnel of various regulations and penalties in place to protect these resources, including the Archaeological Resources Protection Act of 1979 (ARPA) and the Native American Graves Protection and Repatriation Act of 1990 (Public Law [P.L.] 101-601) (NAGPRA) responsibilities and their associated penalties. WKM would establish policies to protect cultural resources and minimize the potential for inadvertent impacts to sites.

In the event Any cultural resource discovered by WKM, or any person working on their behalf, encounter any cultural resources that were not identified prior to the Project, the procedures outlined in 43 CFR 10.4, 43 CFR 3809.420(8)(b) and Section VI.B. of the Protocol would be followed. Any such discovery would be immediately reported to the BLM's Authorized Officer, all operations within 100 meters (approximately 330 feet) of the discovery would be suspended,

and the discovery would be protected until the Authorized Officer could develop an appropriate plan for management of the resource, at the expense of WKM, followed by a notice to proceed.

### **Paleontological Resources**

WKM would not knowingly disturb, alter, injure, or destroy any scientifically important paleontological deposits. In the event that previously undiscovered paleontological resources are discovered by WKM in the performance of any surface disturbing activities, the item(s) or condition(s) would be left intact and immediately brought to the attention of the BLM-authorized officer. If significant paleontological resources are encountered, avoidance, recordation, and/or data recovery would be required as determined by the BLM, and at the expense of WKM.

### **Fire Management**

All applicable local, state, and federal fire laws and regulations would be complied with and all reasonable measures would be taken to prevent and suppress fires in the Project Area.

In the event the proposed Project activities start or cause a wildland fire, WKM would be responsible for all the costs associated with the suppression. The following precautionary measures would be taken to prevent and report wildland fires:

- All vehicles would carry fire extinguishers and a minimum of ten gallons of water;
- Adequate fire-fighting equipment (i.e., shovel, Pulaski, extinguishers), and a minimum ten gallons of water would be kept in each vehicle at the Project; and
- Welding operations would be conducted in an area free from or mostly free from vegetation. A minimum of ten gallons of water, a shovel, and fire extinguisher would be on hand to extinguish fires created from the sparks. Extra personnel would be at the welding site to watch for fires created by welding sparks. Welding aprons would be used when conditions warrant (i.e., during red flag warnings).
- Fires would be reported to BLM fire dispatch. The BLM may coordinate with local fire departments for fire suppression activities.

### **Geology and Mineral Resources**

Geotechnical monitoring, consisting of geologic structure mapping, ground water monitoring, and slope stability analyses, would be conducted during active mining to assist in optimizing the final pit designs. Slope movement monitoring also would be conducted to evaluate the safety of the open pit high walls. In addition, operational procedures for controlling blasting and bench scaling would facilitate the mining of stable pit walls.

## **Hazardous or Solid Wastes**

Construction, operation and maintenance activities would comply with applicable federal, state, and local laws and regulations regarding the use of hazardous substances and the protection of air and water quality.

Hazardous waste would be stored in appropriate containers, dumpsters, or barrels which would clearly labeled. Storage containers would be in good repair with no defects and suitable for off-site shipment under NDOT requirements.

Hazardous wastes would be shipped to an approved location by a certified vendor in accordance with RCRA requirements.

WKM would follow the spill contingency measures outlined in the Emergency Response Plan (Appendix J of the Mine Plan). Measures would include spill response, cleanup, and reporting procedures.

## **Night Skies**

To minimize the effects from lighting, WKM would utilize hooded stationary lights and light plants. Lighting would be directed onto the pertinent site only and away from adjacent areas not in use with safety and proper lighting of the active work areas being the primary goal. WKM would utilize lighting designed to reduce the impacts to night skies.

## **Noxious Weeds, Invasive and Non-native Species**

WKM would implement the Noxious Weed Monitoring and Control Plan (Appendix L of the Mine Plan) prepared for the Project that would be implemented during construction and continuing through operations. Management strategies include prevention (i.e., monitoring of new weed infestations, and awareness and education), implementation of cultural practices (practices that reduce the potential for weed establishment), and treatment (i.e., mechanical treatment, prescribed burning, chemical treatment, and biological treatment). The results from annual monitoring and treatment would be reported to the BLM and serve as the basis for updating the plan and developing ongoing annual treatment programs.

## **Protection of Survey Monuments**

WKM would protect all survey monuments, witness corners, reference monuments, bearing trees, and line trees against destruction, obliteration, or damage. Public land survey system monuments would be protected and preserved in accordance with Nevada BLM IM No. NV-2007-003. If, in the course of operations, any monuments, corners, or accessories are destroyed, WKM would coordinate with the BLM.

Registered monuments that would be covered or destroyed in the normal course of events by the implementation of the approved Mine Plan would be replaced by WKM at the completion of operations, using GPS technology.

## **Public Safety**

Public safety would be maintained throughout the life of the Project by excluding unauthorized access to the mining areas through fencing, security, and traffic-control measures.

WKM would establish post-mining configuration of access roads in coordination with the BLM and NDEP with a focus on public safety.

## **Vegetation**

Revegetation of disturbance areas would be conducted as soon as practicable to reduce the potential for wind and water erosion, minimize impacts to soils and vegetation, help prevent the spread of invasive and non-native species in disturbance areas, and facilitate post-mining land uses. Concurrent reclamation would be conducted to the extent practical to accelerate revegetation of disturbance areas. Sediment and erosion control measures and revegetated areas would be inspected periodically to ensure long-term erosion control and successful reclamation.

Any seed mixes and mulches used for reclamation would be certified weed free.

## **Visual Resources**

During operations, the margins of the waste rock dumps would be constructed to provide for variable topography during final regrading, thereby providing a more natural post-mining landscape.

Concurrent reclamation would be implemented to the extent practicable.

## **Water Resources**

BMPs would be used to limit erosion and reduce sediment in precipitation runoff from Project facilities and disturbed areas during construction, operations, and initial stages of reclamation. BMPs may include, but are not limited to, diversion and routing of storm water using accepted engineering practices, such as diversion ditches, and the placement of erosion control devices, such as sediment traps, and rock and gravel cover.

WKM would limit potential impacts to ground water by closing surface drill holes per NRS 534.

Process components would be designed, constructed, and operated in accordance with NDEP regulations. Proposed process facilities would be zero discharge and the heap leach pad would have a composite liner system in accordance with NDEP design criteria.

## **Wildlife**

Land clearing or other surface disturbance associated with the activities within the Project Area would be conducted outside of the avian breeding season, whenever feasible, to avoid potential destruction of active bird nests or young birds in the area. When surface disturbance must be created during the avian breeding season (March 1 through July 31), a qualified biologist would



survey the area prior to land clearing activities in accordance with current BLM protocols. Pre-disturbance surveys for migratory birds are only valid for 14 days. If the disturbance for the specific location does not occur within 14 days of the survey, another survey would be needed. However, if the vegetation has been fully cleared from the work area within the 14 day clearance survey time frame, no additional clearance survey would be required for the disturbed area because it would no longer consist of potential migratory bird nesting habitat. If active nests are located, or if other evidence of nesting (i.e., mated pairs, territorial defense, carrying nesting material, transporting of food) is observed, a protective buffer (the size depending on the habitat requirements of the species and location of the nest) would be delineated after consultation with the BLM resource specialist and the entire area avoided, preventing destruction or disturbance to nests until birds are no longer actively breeding or rearing young, or until the young have fledged.

WKM has prepared a Bird and Bat Conservation Strategy (BBCS) (Appendix A in EA) with commitment to measures that include new surface disturbance performed outside of avian breeding season to the degree possible, performing breeding season surveys prior to any new disturbance activities, posting and enforcing speed limits, removing trash from the site on a regular basis, reporting mortalities to NDOW, incorporating standard raptor protection designs on overhead powerlines, controlling lighting to minimize the potential for bird and bat collisions, installing bat grates/cupolas to protect existing bat habitat, and limiting exposure to hazardous materials. Conservation measures include the design of Project components, monitoring, and adaptive management.

Following Project construction, areas of disturbed land no longer required for operations would be reclaimed as required by the BLM to promote the reestablishment of native plant and wildlife habitat.

Operators would be trained to monitor mining and process areas for the presence of larger wildlife such as pronghorn antelope as well as avian and other terrestrial wildlife. Mortality information would be collected in accordance with the NDOW Industrial Artificial Pond Permit. WKM would establish wildlife protection policies that would prohibit the feeding or harassment of wildlife.

As part of the existing monitoring plan for wildlife, the top of the heap leach pad (s) would be monitored daily for any substantial pooling of cyanide solutions and wildlife mortalities would be reported in accordance with the NDOW Industrial Artificial Pond Permit.

Areas that are being actively leached on the heap leach pad would be inspected on a daily basis. If any ponding is found on the surface, the cause would be determined and measures taken to eliminate the solution accumulation. Measures can include solution delivery system repair, adjustment of solution application rates, and ripping of the heap leach pad surface.

HDPE-lined event pond would include an area of textured pond liner to minimize wildlife entrapment and allow safe egress from the pond. Exploration sumps would be constructed with one sloping side to allow for wildlife egress should wildlife enter the sump.

## **MONITORING AND MITIGATION MEASURES**

Methods to minimize environmental effects from the BLM's Preferred Alternative have been identified in the EA and made part of this Decision Record. A full discussion of these measures can be found in Chapter 4 of the EA. WMK will implement and adhere to all monitoring and mitigation measures within BLM's authority.

### **Noise**

To minimize the effects of blasting noise and vibration to the residents of the Town of Tonopah, blasting operations would be conducted during daylight hours and at approximately the same time for each blast.

### **Public Safety**

The following mitigation would be implemented to minimize blasting flyrock and fumes:

- The correct ANFO mix (94 percent AN, six percent FO) in dry blastholes would be used to avoid the adverse effects of preconditioning (MDA 2014).
- The appropriate priming and bulk explosive loading techniques would be used to control fumes.
- All blastholes would be checked and recorded immediately before loading.
- The nature of any water in the blasthole (i.e. level and recharge rate) would be used to dictate the explosive and loading technique used.
- In areas with no wet holes it is recommended ANFO would be used (MDA 2014).
- The free face would be inspected prior to drilling and all abnormalities observed during drilling such as voids or loss of circulation should be recorded by the drillers and used by the blasters to properly load the blastholes;
- Blastholes would be loaded according to blasthole conditions;
- When blasting to a free face in consistent ground, face burdens of at least 30 charge diameters (17 feet for a 6.75-inch diameter blasthole) would be maintained at all points along the face to properly confine explosive energy;
- The stemming length would be defined based on the charge diameter and blasthole collar conditions;
- Initial stemming lengths would be at least 24 charge diameters (14 feet for a 6.75-inch diameter blasthole) for standard production blast until confinement performance is quantified;
- All blastholes would be measured prior to and after loading (and gassing if that type of product is used);
- Overloaded holes would be remediated by extracting or washing out excessive explosives;
- Angular crushed rock (0.75 to 1.25 inches in diameter) would be used for stemming;
- The blast would be shot the day of loading. This may not always be possible due to wind conditions or production constraints, but it would be set as a performance goal;

- The blast would be fired the same day as loading;
- Blast times would be posted in the local newspaper and posted on the community notice board; and
- Appropriate records would be maintained to document the implementation of the mitigation measures.

### **Special Status Species**

The following mitigation would be implemented to minimize impacts to the loss of bat habitat:

In order to minimize impacts to bat habitat, bat exclusions would be installed at adits 17 and 18 in the early spring (early April) or late summer/early fall (between September 1 and October 31) after the cessation of maternity activities and prior to the onset of hibernation. WKM would provide funding to NDOW to be utilized as off site mitigation to protect underground workings through the installation of steel bat gates at the portal of working(s) identified as significant bat habitat within Esmeralda County. Installation of the bat exclusions are the responsibility of WKM and would be installed by an experienced contractor in coordination with the BLM and NDOW. A cooperative agreement between WKM, the BLM, and the NDOW should be developed.

### **Water Quality, Surface and Ground**

Horse Spring, which is located to the west of the Project Area and on private land controlled by others, would not be directly impacted by the Project activities. However, WKM would coordinate with Esmeralda County efforts to improve the spring.

### **Wildlife**

The following mitigation would be implemented to minimize impacts to big game species:

The three-strand barbed wire perimeter fence would consist of a smooth bottom wire approximately 18 inches above the ground and a top wire not to exceed 42 inches above the ground.

### **3. BLM Notice N-91216 is hereby vacated with the approval of the Plan and acceptance of the financial guarantee.**

Once the financial guarantee is adjudicated for the Plan (N-93515) by BLM Nevada State Office, Branch of Minerals Adjudication, the remaining reclamation and financial guarantee requirements under the Notice N-91216 will be incorporated into the reclamation requirements of the Plan and the Notice terminated.

### **RATIONALE**

The Plan, in combination with the preceding Conditions of Approval, and the enclosed FONSI, show that all practicable means to avoid or minimize environmental harm have been adopted and

that unnecessary or undue degradation of the public lands will not occur as a result of the exploration activities at the Three Hills Mine Project.

The Plan is in conformance with the Tonopah Resource Management Plan Record of Decision (ROD) which identifies the following objectives for locatable minerals: 1) "To provide opportunity for exploration and development of locatable minerals such as gold, silver, copper, lead, zinc, molybdenum, etc. consistent with the preservation of fragile and unique resources in areas identified as open to the operation of mining laws (page 23)", 2) "Reclamation of disturbed areas to meet BLM standards is required for all levels of activity: casual use, notice, or plans of operation (page 36)"

The Plan is in conformance with the President's National Energy Policy Act of 2005 as per Instruction Memorandum (IM-2002-053), as put forth in Executive Order 13212 and will not have an adverse impact on energy development, production, supply, and/or distribution. The EA and FONSI support this Decision.

## **AUTHORITY**

This Decision is in conformance with the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190) as amended (72 USC 4321 et.seq.); General and Title V of the Federal Land Management and Policy Act of 1976 (FLPMA); 43 CFR Part 3800 Subpart 3809- Surface Management (16 USC et.seq.); and 43 CFR Part 3710 Subpart 3715 – Use and Occupancy Under the Mining Laws.

## **APPEAL OF THE DECISION**

If you are adversely affected by this decision, you may request that the Nevada BLM State Director review this decision. If you request a State Director Review, the request must be received in the BLM Nevada State Office at:

BLM Nevada State Office  
State Director  
1340 Financial Blvd.  
Reno, Nevada 89502-7147

no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM Nevada State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at 1553 South Main Street, Tonopah, NV 89049, which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed in this office at 1553 South Main Street, Tonopah, NV 89049, within 30 days from receipt of this decision. As the appellant, you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 that contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Request for a Stay

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the IBLA and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

1. The relative harm to parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

## **DECISION**

AT&T Nevada  
745 West Moana Lane, Room 220B  
P.O. Box 11010  
Reno, Nevada 89520

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Right-Of-Way

### **AT&T Nevada Three Hills Fiber Optic Cable Realignment Plan of Development Approval N-73706**

## **INTRODUCTION**

The Proposed Action, which included a reroute of the existing Nevada Bell dba AT&T Nevada (AT&T) fiber optic cable currently crossing the center of the Project Area, was designed to comply with the FLPMA and regulations contained in 43 CFR 2800, the Tonopah RMP, and other applicable environmental laws and policies.

AT&T's Plan of Development (POD) for the realignment of the AT&T fiber optic cable (N-73706) described as part of the Proposed Action for the Three Hills Mine project, filed pursuant to 43 CFR 2800, was submitted to the Bureau of Land Management (BLM) on December 16, 2014; with a final revision filed on January 29, 2015.

The BLM has prepared an Environmental Assessment (DOI-BLM-NV-B020-2015-0054-EA) that analyzed the affected environment, environmental impacts and developed mitigation measures associated with the Project. The Project and associated activities are located in portions or all of Sections 33, and 34, Township 3 North, Range 42 East (T. 3 N., R. 42 E.), and Sections 3, 4, 5, and 14, T. 2 N., R. 42 E., Mount Diablo Base and Meridian (MDB&M) (Project Area).

## **DECISION**

It is my decision to approve the reroute of the existing AT&T fiber optic cable in the Project Area including all design elements as described in the EA and the Plan of Development (N-73706).

The Plan of Development (N-73706) includes specified environmental protection measures. - Applicant committed environmental protection measures are specified on pages 2-35 and 2-36 of the EA shall become conditions of approval for the POD. AT&T may only perform those actions that have been described in the POD. AT&T must also comply with all other applicable federal, state, and local regulations, including obtaining all necessary permits from other federal, state, and local agencies, and fulfilling any other applicable FLPMA requirements before proceeding with this Project.

Furthermore, an amended ROW grant for the realignment of the existing fiber optic line as outlined in this EA, will be processed in accordance with regulations set forth at 43 CFR 2800. The amendment is necessary to facilitate a proposed rebuild and reroute of the line that crosses the center of the Project Area.

The Proposed Action would continue to occupy the existing 20-foot-wide underground fiber optic cable ROW (N-73706) and relinquishment of the fiber optic cable crossing the middle of the Project Area. Approximately 4,113 linear feet of the existing cable alignment (approximately 1.9 acres of the existing ROW) located on public and private land will be relinquished, but will remain in place.

When the amended ROW grant is issued, it will be subject to the terms and conditions contained therein.

## **DECISION RATIONALE**

The BLM's purpose is to consider the application to amend their existing ROW grant and to approve their Plan of Development. The BLM's need is established by the BLM's responsibility under the FLPMA to respond to a request for a ROW grant.

## **43 CFR 2800 APPEAL STATEMENT**

In general, a decision of the BLM is not effective during the time in which an adversely affected person may file a notice of appeal (43 CFR 4.21(a)(1)). However, according to regulation, BLM decisions issued under 43 CFR Part 2800 are and remain in effect pending appeal (43 CFR 2801.10(b)). Since this right-of-way decision is issued under 43 CFR Part 2800, it is in full force and effect as of the date of issuance. This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the attached Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office at 1553 S. Main Street, P.O. Box 911, Tonopah, NV 89049, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error. This decision will remain in full force and effect during the appeal unless a written request for a stay is granted.

If you wish to file a petition pursuant to regulations at 43 CFR 2801.10 or 43 CFR 2881.10 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed in this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

1. The relative harm to parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

cc: Nevada State Office, Branch of Minerals Adjudication (NV-923)

Gene Seidlitz (NV-920)

Doug Siple (NV-920)

Bruce Holmgren  
Nevada Division of Environmental Protection  
Bureau of Mining Regulation & Reclamation  
901 S. Stewart Street, Suite 4001  
Carson City, Nevada 89701